

**REMARKS**

Applicants received the Office Action dated March 17, 2008, in which the Examiner: 1) provisionally rejected claims 1 and 20 on the ground of nonstatutory obviousness-type double patenting as being allegedly unpatentable over claim 15 of copending Application No. 10,640,619 (hereinafter '619) in view of Labadie et al. (U.S. Publication No. 2003/0195959; hereinafter "Labadie"); 2) objected to claims 1, 15, and 20 based on typographical or grammatical improprieties; 3) rejected claims 1-11 and 20 as obvious over Labadie and further in view of Hind et al. (U.S. Patent No. 7,003,565; hereinafter "Hind"); and 4) rejected claims 15-19 as obvious over Labadie and Hind, and further in view of Bansal et al. (U.S. Publication No. 2003/0120593; hereinafter "Bansal").

With this Response, Applicants have amended claims 1, 15, and 20. Based on the amendments and remarks herein, Applicants respectfully submit that all pending claims are allowable and respectfully request reconsideration.

**I. DOUBLE PATENTING**

Examiner provisionally rejected claims 1 and 20 on grounds of non-statutory obviousness-type double patenting as being unpatentable over claim 15 of '610 in view of Labadie. Section 804 of the MPEP states: "Before consideration can be given to the issue of double patenting, two or more patents or applications must have at least one common inventor and/or be either commonly assigned/owned or non-commonly assigned/owned but subject to a joint research agreement as set forth in 35 U.S.C. 103(c)(2) and (3) pursuant to the CREATE Act (Pub. L. 108-453, 118 Stat. 3596 (2004))." Labadie appears to be an I.B.M. patent with a mutually exclusive inventive entity. As such, a double patenting rejection is inapplicable. Applicants respectfully request Examiner to specify which of the three grounds listed in section 804 applies to Labadie. If none of the grounds apply to Labadie, Applicants respectfully request that the double patenting rejections be withdrawn.

## **II. CLAIMS 1, 15, AND 20**

Examiner objects to claims 1, 15, and 20 because of typographical or grammatical improprieties. Applicants amend claims 1, 15, and 20 to correct for typographical and grammatical errors. Specifically, the term “plug-in instruments” was clarified along with correct hyphenation. As such, Applicants respectfully request that Examiner withdraw these objections.

## **III. ART BASED REJECTIONS**

### **A. Claims 1-11, 15-19, and 20**

Independent claim 1 recites, in part, “installing an instrument hook prior to execution of the selected transaction.” Independent claims 15 and 20 recite similar limitations. However, the cited references fail to teach or suggest the quoted limitation. Examiner cites figures 4A-C and 5A and ¶ 61 of Labadie as allegedly teaching the quoted limitation. At the locations cited by Examiner, Labadie teaches an execution thread having a logging data class 330 defining a data structure for distributed logging. However, defining a method for distributed logging does not teach or suggest “installing an instrument hook prior to execution of the selected transaction.” None of the other art of record satisfies the deficiencies of Labadie. For at least this reason, independent claims 1, 15, and 20 and dependent claims 2-11 and 16-19 are allowable over Labadie.

Additionally, independent claim 1 recites, in part, “instrumenting said selected transaction . . . using one or more plug-in instruments called by the instrument hook.” Independent claims 15 and 20 recite similar limitations. However, the cited reference fails to teach or suggest the quoted limitation. Examiner cites figures 2, 4A-C, and 5A-B and ¶¶ 61 and 34-35 of Labadie as allegedly teaching the quoted limitation. At the locations cited by Examiner, Labadie teaches a provider plug-in 152 defining a provider service, which may be a logging service. (Labadie ¶ 34). Furthermore, Labadie teaches a middleware object between two client objects and a provider class 310 implementing a distributed logging service to log events between client objects. (Labadie ¶ 59).

However, a provider plug-in defining a logging service does not teach or suggest that the instrument hook calls a plug-in instrument in order to instrument a transaction, as required by the quoted limitation. None of the other art of record satisfies the deficiencies of Labadie. For at least this additional reason, independent claims 1, 15, and 20 and dependent claims 2-11 and 16-19 are allowable over Labadie.

Additionally, independent claim 1 recites, in part, “initiating said top level transaction in response to a request received from a web server.” Independent claims 15 and 20 recite similar limitations. However, the cited references fail to teach or suggest the quoted limitation. Examiner cites figure 2 and ¶¶ 32-34 of Labadie as allegedly teaching the quoted limitation. At the locations cited by Examiner, Labadie teaches a server-side DCS Middleware plug-in 146 obtaining correlators from the server-side DCS service 144 for transport to the client 122 over network 142. (Labadie ¶¶ 32-34). The cited location also teaches the converse (*i.e.*, client transporting correlators to server) of this. However, the transmission of partner correlators between client and server over a network does not teach or suggest “initiating said top level transaction in response to a request received from a web server.” None of the other art of record satisfies the deficiencies of Labadie. For at least this additional reason, independent claims 1, 15, and 20 and dependent claims 2-11 and 16-19 are allowable over Labadie.

Additionally, independent claim 1 recites, in part, “generating correlators for identifying said top level transaction and a parent transaction.” Independent claims 15 and 20 recite similar limitations. However, the cited references fail to teach or suggest the quoted limitation. Examiner cites ¶¶ 5 and 12-13 of Labadie as allegedly teaching the quoted limitation. At the locations cited by Examiner, Labadie teaches a correlator data structure having a means for defining an association between the correlator data structure and a partner correlator data structure. (Labadie ¶ 13). Examiner relies on the ARM application as teaching the parent-child relationship, and Labadie further teaches that “ARM correlators provide identification only to the level of a transaction instance.” (Labadie ¶¶ 5-6).

An association between partner-level correlators fails to teach or suggest “generating correlators for identifying said top level transaction and a parent transaction.” None of the other art of record satisfies the deficiencies of Labadie. For at least this additional reason, independent claims 1, 15, and 20 and dependent claims 2-11 and 16-19 are allowable over Labadie.

Additionally, independent claim 1 recites, in part, “utilizing said correlators to cross-correlate a performance metric corresponding to a parent transaction with one or more performance metrics corresponding to one or more child transactions of said parent transaction.” However, the cited references fail to teach or suggest the quoted limitation. Examiner cites figures 5B and 6A-C and ¶ 73 of Labadie as allegedly teaching the quoted limitation. At the locations cited by Examiner, Labadie teaches generating and transporting correlators including a SOAP parameter. (Labadie ¶ 73). Furthermore, with regard to the Tivoli ARM application, Labadie teaches that “component transactions [are] referred to as the children of the parent transaction” and that “each application responsible for a component . . . is modified to include calls” that “may request correlators.” (Labadie ¶ 5). Thus, Labadie only teaches that children (*i.e.*, component transactions) request correlators. However, children requesting correlators fails to teach or suggest cross-correlation of “a parent transaction.” None of the other art of record satisfies the deficiencies of Labadie. For at least this additional reason, independent claim 1 and dependent claims 2-11 are allowable over Labadie.

#### **IV. CONCLUSION**

For the reasons stated above, Applicants respectfully submit that the application is in condition for allowance. In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed, or that limitations from the specification can be imported into the claims. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims.

**Appl. No. 10/640,620**  
**Amdt. dated June 17, 2008**  
**Reply to Office action of March 17, 2008**

Moreover, it should be understood that there may be other distinctions between the claims and the prior art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request that a timely Notice of Allowance be issued in this case. If any fees or time extensions are inadvertently omitted or if any fees have been overpaid, please appropriately charge or credit those fees to Hewlett-Packard Company Deposit Account Number 08-2025 and enter any time extension(s) necessary to prevent this case from being abandoned.

Respectfully submitted,

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